Secn. II-27—100,000—25-8-48.

Revenue (1948) Department.

SERIES.

G.O. No. 2526

Dated 21.10.48

[Despatch Abstract.]

Tax - Madras General Sales Tax Act, 1939 - Dealers having several branches or business floating branches as [illegible] units for purposes of assessment - Board's p[illegible] Orders passed.

Revenue Department

Tax - Madras General Sales Tax Act, 1939 - Dealers having several branches of business - Treating branches as independent units - proposals.

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From the Board of Revenue Ref.T.No. 5595/47-3 dated 6-1-1948.

To A.S.

Please see the Board's Reference at pages 1-2 c.f.

2. At present the several branches of a firm are treated as oneunit and the head office of the firm is assessed totax on the aggregate turnover of all its branches. The Board has now suggested that every branch shouldbe treated as an independent entity and shou be taxed separately irrespective of the taxable minimum. The reasor for this proposal are contained in para 3 of the Board's Reference at page1 c.f. which are mainly (1) administrative convenience and (2) the representation of certain dealers that it is inconvenient tc produce the accounts of all branches at one place for purposes of check before final assessment. If the proposal is accepted, the Board has stated that it will submit the necessary draft amendment to Notification No. 819 dated 15-9-1939. Though the proposal may be convenient from the point of view of the administration, it may not be welcome to the dealers for the following reasons:-

(1) If each branch is treated as an independent unit, a transfer of stock from onebranch to another will be a 'sale' and will be liable to tax.

(2) Since every dealer whose turnover is not less than Rs. 7,500 and any other dealer who ~~not~~ wants to collect amounts by way of taxes has to get himself registered by paying an annual fee of Rs. 6/- per annum, a dealer having a number of branches will have to get himself registered separate-tely for each branch by paying the prescribed fee.

The Board has stated that each branch will be treated as an independent unit if the dealer agrees to pay tax on the turnover of each branch irrespective of the taxable minimum. The dealer may not object to this as ~~as~~ even now the tax is calculated on the aggregate turnover of all his branches. But it is not clear whether each branch can be taxed irrespective of ~~the~~ the turnover in the face of thespecific provision in section 3(3) of the Act which exempts a dealer whose total turnover in any year is less than ten thousand rupees. A mere amendment to Notification No. 819 dated 15-9-1939 may not also be enough for the purpose of giving effect to the proposal. Rule 5(2) of the Turnover and Assessment Rules which prescribed the procedure to be adopted for the submission of returns by firms having a number of branches will have to be amended. Rule 5-A which prescribes the procedure for registration will also have to be amended. These amendments have to be approved by a resolution of the Legislative Assembly.

3. The file may be sent to Legal and Finance for remarks on the Board's proposal.

The proposal has been made, at the instance of certain dealers and has some advantages as pointed out by the Board.

One point for consideration would however, be whether the permissionmay not be made a permissive one i.e. that such of the dealers who want to keep on the existing system of taxation on the basis of the turn over of all the branches together may be allowed to do so.

2. The point raised at 'A' above no doubt arises but the intention is not to allow any such cases to escape taxation.

Saitable provisions will have to be made in the rules.

3. The Board's proposals ~~after~~ generally suitable. If they are acceptable, Legal may be consulted as to what provisions shouldbe made in the rules to give effect to them.

Sd/ H.S. Jagannatakam
28.1.48.

I dont see the need for its proposal at all. Not one representation to that effect has been made either in the selectie committee or in other deputations and communications received by Government. I suppose the dealers must be aware that if any branch is treated as an independent unit, a transfer of stock will be treated as a sale and that they will have to pay double taxation, and it is a matter for surprise that they should elect to follow the ss system now proposed.

Sd/ P.S.V.

A draft memo to theBoard of Reve ue is submitted for approval with reference to B on page 2 ante.

Sd/ P.S.V.

Issued as Memo.NO. 2211/N/48-1 dated 4.2.48.
From the Board of Revenue Ref.T.No. 5595/47-4-d-3.3.48.

Please see the notes on p ges 1-3 above, the memo at pages 3-4 c.f. and the Board's report at pages 5-6 c.f.

2. In the circumstances expalained by the Board in its reference at pages 5-6 c.f. it is for orders whetherthe Board's proposals that every branches should be treated as an independent entity and should be taxed separately irrespective of the taxable minimum may be accepted subject to the condition suggested in Assistant Secretary's note at 'X' on page 2 ante. If so the file may be sent to legal for remarks with reference to para 3 of Assistant Secretary's note at pages 3 ante.

The Bard's remarks at pages 5-6 c.f may be perused with reference to the late Joint Secretary's note at page 2 supra.

Re: the transfer of stocks referred to by the Joint Secretary, the Board reports that such transfers were not treated as sales hitherto in cases where branches were treated as independent units and that there is no intention of treating them as sales hereafter. It is for orderw e whether under the circumstances reported by the Board the Board's original proposal will be approved with the modifications suggested at pages 2-3 supra Legal may see.

Sd/-x x x

If each branch of a firm is to be assessed separately as an independent firm, it is only right to regard transfer of stocks from one branch to another as a sale. The Board propoes to agree to each branch being treated as an independent unit, only if the firm agrees to pay sales tax. On the turnover of each unit, irrespective of whether the turnover of such a unit is taxable or not. Under the Act and the Rules asthey are, it does not seem a quite right for the Board to agree to a branch of a firm being treated as an independent unit on the condition mentioned at 'A' above.

2. The object really is not to cause in convenience to the heed office of a firms by its having to produce all the account books etc. of all branches at the head office for assessment. This could perhaps be obviated by the Board issuing instructions to the Aesistant Commercial Tax Officers in whose jurisdiction the branches are situated to scrutinise the account books of the brnches and furnish to the Deputy Commercial Tax Officer in

in whose jurisdiction the main office is situated all information regarding turnover etc. So as to enable assessment being done without the production of all the account books. The Deputy Commercial Tax Officer on receipt of information in respect of each branch will proceed to assess the of each firm as a whole on the aggregate turnover.

Sd/ V.K. Rao,
28.3.48.

Legal Department

The Board's proposal referred to in paragraph 1 of Revenue Department note at page 5 ante would involve legal inconsistenc and may lead to difficulties where cocercive steps have to be taken. There is however no objection to prescribe the prodadure suggested in paragraph 2 on page 5 ante, by suitable amendment of the latter potion of rule 5 (2) relating to the submission of returns, etc. by the branches and the notification NO.II at pages 44 of the Sales Tax Manual,. The mere issue of executive instructions will not be sufficient.

Sd/-x x x x x

Please see the Legal Department note above. The suggestion in para 2 of the Deputy Secretary's note at page 6 ante may be put to the Board of Revenue for remakrs. A draft memo is submitted for approval.

Sd/-V.K.Rao,
20.4.48.

Issued as Memo.No. 2211N/48-3-dated 20-4-48.
From the Board of Revenue Ref.T.p. 5595/47-6 dated 25.8.48.

Please see the notes at pages 5-6 above, the memo to the Board of Revenue at pages 7-8 c.f. and the Board's report at pages 8-9 c.f.

2. The Board considers that the suggestion contained in para 2 of Deputy Secretary's note at page 5 ante will result in considera work to the assessing officers and is accordingly not in favour of the suggestion. In regard to its proposal to treat each branch as an indpendent unit provided the dealer agrees to pay tax in respec of each branch irrespective of its not having the minimum turnoger the Board has stated the procedure is in vogue even from 1940 and tha up to now there has not been a single instance when either legal inconsistency in the procedure has been urged on difficulty in the recovery of tax has been experienced. It has accordingly suggested that the existing practice may be allowed to continue. In he In the circumstances, it is for orders whether the Board may be informed that the Government have no objection in the Board allowing the existing practice to continue but that the Government do not consider it necessary to amend the rules in this regard.

Legal may see for remarks.

Sd/-x x x x x

Legal Department.

Seen in Legal. It is not free from doubt whether the "agreements" the Board desires rely on would be lawful agreements.

Sd/-x x x x

Revenue Department.

Please see the notes from page 5 ante.

2. The Board of Revenue may be informed as suggested at A above. A draft order is submitted for approval.

Sd/-V.K.Rao.

S.P.

Sd/- B. Gopal Reddi
Minister for Finance.

GOVERNMENT OF MADRAS
Abstract
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TAX - Madras General Sales Tax Act, 1939 - Dealers having severa baanches of business Treating branches as independent units for purposes of assessment - Board's proposals - Orders passed.
S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-S-

Revenue Department

G.O.Ms.No. 2528. Dated the 25th October 194
READ the following:-

From the Board of Revenue Ref.T.No. 5595/47-3-d/6.1.48.
Government Memo.No. 2211-N/48-1-d/4-2-48.
From the Board of Revenue Ref.T.No. 5595/47-4-d-3-3-48.
Government Memo.No. 2211/N/48-3 d-20-4-48.
From the Board of Revenue Ref.T.No. 5595/47-6-d-25-8-48.
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O R D E R:-

The Government have examined the proposal of the Board of Revenue that each branch of a dealer may be treated as an independent unit for purposes of assessment to tax under the Madras General Sales Tax Act, 1939 - provided that the dealer agrees to pay on the turnover of each branch inspective of the taxable a minimum. The Government do not consider it necessary to amend the rules for giving effect to the Board's proposal, in the absence of enquiry into the legal validity of the agreements. They have, however, no objection to allow the Board to continue the existing practice of complying with the requests from dealers to declare a each branch of their buniness as a separate and indep ent unit for purposes of assessment to sales tax.

Sd/-x x x x x

(By Order of His Excellency the Governor)

Sd/-x x x x x

To
The Board of Revenue.

/True copy/

S. Jayaraman
Office Assistant,
Madras Record Office.

SP.2.2.54.

a/16/54.